

DISCUSSION

Under the IFQ program, as implemented by RAM, to receive credit for additional qualifying pounds of halibut, a qualified person, as defined in 50 C.F.R. § 679.40(a)(2), must have owned or leased the vessel from which the halibut was legally landed and at the time of the landing. To be legally landed, the halibut must have been harvested with fixed gear and landed in compliance with state and federal regulations in effect at the time of the landing.³ Evidence of a legal landing is limited to state fish tickets and federal catch reports.⁴

In several cases,⁵ we have ruled that state fish tickets and federal catch reports are the only evidence that can be used as proof of legal landings. Mr. Sather concedes that the landings in question were not recorded on state fish tickets or federal catch reports. Thus, his evidence of the landings is insufficient and unacceptable under the IFQ regulations. Consequently, I conclude that RAM properly denied IFQ credit for the halibut landings Mr. Sather here claims.

In addition, I presume that under Washington state law or regulations the landings should have been reported on Washington state fish tickets. If that presumption is correct, then the failure to report means that the landings were not in compliance with state regulations in effect at the time of the landing and, therefore, do not meet the definition of "legal landing" in our regulations. If, in fact, that is the case, then this would form a separate and additional basis for denying IFQ credit for the landings in question.

FINDING OF FACT

Mr. Sather did not record his claimed additional landings of halibut on state fish tickets or federal catch reports.

CONCLUSIONS OF LAW

1. State fish tickets and federal catch reports are the only evidence that can be used to prove legal landings of halibut and sablefish under the IFQ program.
2. The evidence of the landings in question is insufficient and unacceptable under the IFQ regulations.

³See, 50 C.F.R. § 679.40(a)(3)(v)(A).

⁴See, 50 C.F.R. § 679.40(a)(3)(v)(B).

⁵See, e.g., Sonya Corazza, Appeal No. 95-0026, September 30, 1998, and Jack C. Kvale, Appeal No. 95-0103, September 30, 1998.

3. RAM properly denied IFQ credit for the halibut landings Mr. Sather here claims.

DISPOSITION

The IAD that is the subject of this appeal is AFFIRMED. This Decision takes effect on February 25, 1999, unless by that date the Regional Administrator orders review of the Decision.

Any party, including RAM, may submit a Motion for Reconsideration, but it must be received at this Office not later than 4:30 p.m., Alaska Time, on February 5, 1999, the tenth day after the date of this Decision. A Motion for Reconsideration must be in writing, must specify one or more material matters of fact or law that were overlooked or misunderstood by the Appeals Officer, and must be accompanied by a written statement or Points and Authorities in support of the motion.

Edward H. Hein
Chief Appeals Officer